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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,344	01/26/2006	Andy Peichl	11884/410001	2864

53000 7590 02/24/2009

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EXAMINER	
WONG, ERIC TAK WAI	

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
02/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/517,344	PEICHL ET AL.	
	Examiner	Art Unit	
	ERIC T. WONG	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14,16-21 and 23-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14,16-21 and 23-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/601170. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claims recite a system comprising a central processing unit; input/output means; at least one database containing human resource data relating to human resource objects; and a commitment engine; said commitment engine retrieving human resource data from said at least one database and evaluating a human resource budget for a given human resource object for a predefined period of time based on said retrieved human resource data, said commitment engine further storing a result of said evaluation, monitoring said human resource budget during said predefined period of time. Claim 1 of the '170 application additionally recites providing an automatic notification to a user based on the monitoring, which is an obvious difference. This is

a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 14 and 21 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16 and 23, respectively, of copending Application No. 10/601170. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the claims recite methods and computer program products for retrieving human resource data and evaluating a human resource budget for a given human resource object for a predefined period of time based on said retrieved human resource data; and storing and monitoring said human resource budget during said predefined period of time.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 14, 17-21, and 24-27 rejected under 35 U.S.C. 102(b) as being anticipated by SCS (North Carolina Salary Control System Operator's Manual).

Regarding claims 1, 14, and 21,

SCS teaches retrieving human resource relevant data from a database containing human resource data (see Salary Control System, section 5.1); evaluating a human resource budget for a given human resource object for a predefined period of time on the basis of said retrieved data (see section 1); creating an encumbrance for the given human resource object,

the encumbrance fixedly reserving a corresponding budget for the given human resource object (see sections 4.8.1 and 4.9.1); storing a result of the evaluation and the encumbrance (see sections 4.8.1 and 4.9.1); monitoring said budget during said predefined period of time (see section 1); and adjusting the encumbrance according to changes to human resource relevant data (see sections 4.8.1 and 4.9.1).

Regarding claim 2,

SCS teaches wherein said commitment engine comprises an administrator module, an object collector module and a data collector module, said administrator module being connected to said object collector module and said data collector module, said administrator module administering data flow to and from said object and data collector modules, said object collector module retrieving objects from said at least one database and said data collector means collecting data from said at least one database and writing updated human resource data to said at least one database.

Regarding claim 3,

SCS teaches creating budget control documents, handling errors and triggering workflows to overcome an error (see 3.2.1), and transferring budget data to exterior accountancy (see 5.1),.

Regarding claim 4,

SCS teaches wherein said human resource data consists of position data and individual employee data.

Regarding claim 5,

SCS teaches wherein said commitment engine calculates individual employee salary on the basis of said retrieved data.

Regarding claim 6,

SCS teaches wherein said commitment engine calculates said individual employee salary for said predefined period of time as a budget and monitors said budget during said period of time.

Regarding claim 7,

SCS teaches wherein said commitment engine combines several of said individual salary budgets into a department or cost center budget.

Regarding claim 8,

SCS teaches wherein said commitment engine monitors said department or cost center budget during said period of time.

Regarding claims 17 and 24,

SCS teaches on the basis of a budget preparation, performing a reservation step for a human resource position only, then performing a pre-commitment step for occupied and vacant human resource positions only on the basis of retrieved specific position data ("funded but not established"), and then performing a commitment step for human resource objects only on the basis of retrieved specific object data (see 5.4), and subsequent adaptation of the results of the respective prior steps.

Regarding claims 18 and 25,

SCS teaches reserving funds for said predefined period of time on the basis of said commitment step (salary reserve).

Regarding claims 19-20, 26-27,

SCS teaches continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource object data (see section 4.1).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 9, 16, and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over SCS in view of GLS (General Ledger System, "Salary Encumbrances").

Regarding claim 9,

SCS does not explicitly teach wherein monitoring involves a comparison of said calculated budget with actually effected salary payments.

GLS teaches wherein said monitoring involves a comparison of said calculated budget with actually effected salary payments. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify SCS with wherein monitoring involves a

comparison of said calculated budget with actually effected salary payments. The modification would have been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claims 16 and 23,

SCS does not explicitly teach wherein adjusting the encumbrance corresponds to continuously adapting said reserved funds by subtracting effected salary payments.

GLS teaches adjusting an encumbrance by continuously adapting said reserved funds by subtracting effected salary payments (see page 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify SCS to include wherein adjusting the encumbrance corresponds to continuously adapting said reserved funds by subtracting effected salary payments. The modification would have been the application of a known technique to a known method ready for improvement yielding predictable results.

8. Claims 10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over SCS in view of Visual Rota ("Cash Budgets & Budgetary Control", cited in prior Office action).

Regarding claims 10-11,

SCS does not explicitly teach calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time.

Visual Rota teaches calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time (see "Indirect Costs", "Using Budgetary Control in Visual Rota"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify SCS with calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time. The modification would have been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claim 12,

SCS teaches wherein said commitment engine provides an indication for a hiring decision regarding hiring of new personnel on the basis of the difference between said potential position budget and said actual employee budget (see 2.1.1).

9. Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over SCS in view of *In re Venner*, 120 USPQ 192, 194; 262 F2d 91 (CCPA 1958).

Regarding claim 13,

SCS teaches manually recognizing changes to said human resource data that are relevant to said budget and re-evaluating said budget. The mere automation of this manual process does not distinguish over the prior art (see *In re Venner*). Therefore, it would have

been obvious to one of ordinary skill in the art to automate the manual process of recognizing changes to human resource data that are relevant to said budget and re-evaluating said budget. One skilled in the art would have been motivated to make the modification for increased efficiency.

Response to Arguments

10. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

ERIC T. WONG
Examiner
Art Unit 3693

February 6, 2009